The nature of the liquid found in the car was proved by a certificate of the Government Chemist. Although the person or persons who committed the said offence had not been arrested and brought to justice the learned Magistrate found that an offence had been proved in respect of the dutiable liquor found in the luggage boot of the car and he ordered a forfeiture under s. 83(1) of the Ordinance. He also found that the prosecution had shown that an offence under the Ordinance had been committed in respect of the liquor and the car and that the car had been seized by a Revenue Officer and he therefore ordered forfeiture of the car.

The appeal was on the grounds that the learned Magistrate erred: (1) in ordering forfeiture on the strength of the general words used in the Analyst's certificate of his findings in respect of the liquor; (2) in law in holding that s. 83(1) of the Liquors Revenue Ordinance applied when there was no accused person or persons before the Court and no conviction.

Held: (1) the order must be set aside on the ground that the nature of the liquid found in the car was proved by a certificate of the analyst which was not admissible in this case; (2) the learned Magistrate had no jurisdiction to decide whether a forfeiture had taken place as s. 69 of the Liquors Revenue Ordinance merely enables a Magistrate's Court to order a forfeiture where such forfeiture arises out of an order of a Court.

MAGISTRATE'S APPEAL.

Yusuf Jumabhoy for the appellant.

G. S. Hill (Crown Counsel) for the respondent.

Cur. Adv. Vult.

Murray-Aynsley C.J. : —I think that this order must be set aside on the grounds that the nature of the liquid found in the car was proved by a certificate of the analyst. Further I do not think that the Magistrate had jurisdiction to decide whether a forfeiture had taken place. Section 69, in my opinion, merely enables a Magistrate's Court to order a forfeiture where such forfeiture arises out of an order of a Court. In my opinion the forfeiture, if any, arises out of seizure whilst being used for the purpose of carrying contraband liquor. Thereafter the question is one of title to be decided by the civil Courts if a dispute arises.

Section 218 of the English Customs Consolidated Act, 1876, on which section 69 is based, has the words "and the liability to forfeiture of any goods seized" which are omitted in the Ordinance.

Further section 226 of the Act gives Justices power to condemn goods in cases like the present one. There is no corresponding section here.

Appeal allowed.

Solicitors for the appellant: *Mallal & Mamazie.*

CHOOI KAM WOH v. REGINA

[A. Cr. J. (Murray-Aynsley C.J.) November 18, 1954]

[Singapore — Magistrate's Appeal No. 119 of 1954]

Criminal procedure — Identification by photograph — Subsequent identification.

This appeal raises a point of importance as to the value of identification by photograph. The facts and *ratio decidendi* appear in the short judgment reported below.

[Editorial Note: While identification by photograph before arrest is acceptable in law, it has always been held that once a man has been arrested the identification should be by personal inspection. See **Lai Ah Kam & Anor. v. Rex** (1939) M.L.J. 306 and **Public Prosecutor v. Kok Heng & Ors.** (1948) M.L.J. 171].

MAGISTRATE'S APPEAL.

The appellant in person.

G. S. Hill (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — The facts in this case were rather unusual. Someone was seen by a detective taking the bicycle of the complainant. The thief was not caught. A few days later the detective was shown 200 photographs from which he picked out one of the appellant. The appellant was later arrested in Kuala Lumpur and subsequently identified by the detective more than three months after the offence. There was absolutely no other evidence against the appellant. The procedure adopted is usual and perfectly legitimate, but the effect of a subsequent identification is thereby weakened. In the circumstances I did not consider that the charge was sufficiently proved.

Appeal allowed.

LIM TECK HOCK v. REGINA

[A. Cr. J. (Murray-Aynsley C.J.) November 18, 1954]

[Singapore — Magistrate's Appeal No. 100 of 1954]

Road Traffic Ordinance, 1941 — Licence to drive "All motor cars and vehicles to 2½ tons" — Ambiguous — Motor cycle is a vehicle.

The appellant was charged for riding a motor cycle without a licence and also for using a motor cycle whilst not covered by 3rd party insurance. In fact he had a licence to drive "Vehicles in class III (All motor cars and vehicles to 2½ tons)". On his plea of guilty he was fined and disqualified for 12 months and he appealed against sentence.

By way of revision the conviction and sentence were set aside for the reasons set out in the judgment below.

MAGISTRATE'S APPEAL.

The appellant in person.

J. F. McWilliam (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — In this case the appellant had a licence made out in the following form "Vehicles in Class III (All motor cars and vehicles to 2½ tons)". This is ambiguous. Class III in the regulations does not include motorcycles, but a motorcycle is a vehicle. The appellant naturally thought that he could drive a motorcycle. Where a licence is intended to be restrictive the restriction should be plainly indicated. By way of revision I ordered the conviction and sentence to be set aside.

Appeal allowed.